

## § 520.8

## 46 CFR Ch. IV (10–1–09 Edition)

### § 520.8 Effective dates.

(a) *General.* (1) No new or initial rate, charge, or change in an existing rate, that results in an increased cost to a shipper may become effective earlier than thirty (30) calendar days after publication.

(2) An amendment which deletes a specific commodity and applicable rate from a tariff, thereby resulting in a higher “cargo n.o.s.” or similar general cargo rate, is a rate increase requiring a 30-day notice period.

(3) Rates for the transportation of cargo for the U.S. Department of Defense may be effective upon publication.

(4) Changes in rates, charges, rules, regulations or other tariff provisions resulting in a decrease in cost to a shipper may become effective upon publication.

(b) *Amendments.* The following amendments may take effect upon publication:

(1) Those resulting in no change in cost to a shipper;

(2) The canceling of a tariff due to cessation of all service by the carrier between the ports or points covered by the tariff;

(3) The addition of a port or point to a previously existing origin or destination grouping; or

(4) Changes in charges for terminal services, canal tolls, additional charges, or other provisions not under the control of the common carriers or conferences, which merely acts as a collection agent for such charges and the agency making such changes does so without notifying the tariff owner.

(c) *Controlled carriers.* Published rates by or for controlled carriers shall be governed by the procedures set forth in part 565 of this chapter.

### § 520.9 Access to tariffs.

(a) *Methods to access.* Carriers and conferences shall provide access to their published tariffs, via a personal computer (“PC”), by:

(1) Dial-up connection via public switched telephone networks (“PSTN”); or

(2) The Internet (Web) by:

(i) Web browser; or

(ii) Telnet session.

(b) *Dial-up connection via PSTN.* (1) This connection option requires that tariffs provide:

(i) A minimum of a 14.4Kbps modem capable of receiving incoming calls;

(ii) Smart terminal capability for VT-100 terminal or terminal emulation access; and

(iii) Telephone line quality for data transmission.

(2) The modem may be included in a collection (bank) of modems as long as all modems in the bank meet the minimum speed.

(c) *Internet connection.* (1) This connection option requires that systems provide:

(i) A universal resource locator (“URL”) Internet address (e.g., <http://www.tariffsrus.com> or <http://1.2.3.4>); and/or

(ii) A URL Internet address (e.g., <telnet://tariffsrus> or <telnet://1.2.3.4>), for Telnet session access over the Internet.

(2) Carriers or conferences shall ensure that their Internet service providers provide static Internet addresses.

(d) *Commission access.* Commission telecommunications access to systems must include connectivity via a dial-up connection over PSTNs or a connection over the Internet. Connectivity will be provided at the expense of the publishers. Any recurring connection fees, hardware rental fees, usage fees or any other charges associated with the availability of the system are the responsibility of the publisher. The Commission shall only be responsible for the long-haul charges for PSTN calls to a tariff initiated by the FMC.

(e) *Limitations.* (1) Tariffs must be made available to any person without time, quantity, or other limitations.

(2) Carriers are not required to provide remote terminals for access under this section.

(3) Carriers and conferences may assess a reasonable fee for access to their tariff publication systems and such fees shall not be discriminatory.

(4) Tariff publication systems shall provide user instructions for access to tariff information.

(f) *Federal agencies.* Carriers and conferences may not assess any access charges against the Commission or any other Federal agency.

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(g) *User identifications.* Carriers and conferences shall provide the Commission with the documentation it requires and the number of user identifications and passwords it requests to facilitate the Commission's access to their systems, if they require such identifications and passwords.

### § 520.10 Integrity of tariffs.

(a) *Historical data.* Carriers and conferences shall maintain the data that appeared in their tariff publication systems for a period of five (5) years from the date such information is superseded, canceled or withdrawn, and shall provide on-line access to such data for two (2) years. After two (2) years, such data may be retained on-line or in other electronic form, and shall be made available to any person or the Commission upon request in a reasonable period of time. Carriers and conferences may charge a reasonable fee for the provision of historical data, not to exceed the fees for obtaining such data on-line. No fee shall apply to federal agencies.

(b) *Access date capability.* Each tariff shall provide the capability for a retriever to enter an access date, *i.e.*, a specific date for the retrieval of tariff data, so that only data in effect on that date would be directly retrievable. This capability would also align any rate adjustments and assessorial charges that were effective on the access date for rate calculations and designation of applicable surcharges. The access date shall also apply to the alignment of tariff objects for any governing tariffs.

(c) *Periodic review.* The Commission will periodically review published tariff systems and will prohibit the use of any system that fails to meet the requirements of this part.

(d) *Access to systems.* Carriers and conferences shall provide the Commission reasonable access to their automated systems and records in order to conduct reviews.

### § 520.11 Non-vessel-operating common carriers.

(a) *Financial responsibility.* An ocean transportation intermediary that operates as a non-vessel-operating common

carrier shall state in its tariff publication:

(1) That it has furnished the Commission proof of its financial responsibility in the manner and amount required by part 515 of this chapter;

(2) The manner of its financial responsibility;

(3) Whether it is relying on coverage provided by a group or association to which it is a member;

(4) The name and address of the surety company, insurance company or guarantor issuing the bond, insurance policy, or guaranty;

(5) The number of the bond, insurance policy or guaranty; and

(6) Where applicable, the name and address of the group or association providing coverage.

(b) *Agent for service.* Every NVOCC not in the United States shall state the name and address of the person in the United States designated under part 515 of this chapter as its legal agent for service of process, including subpoenas. The NVOCC shall further state that in any instance in which the designated legal agent cannot be served because of death, disability or unavailability, the Commission's Secretary will be deemed to be its legal agent for service of process.

(c) *Co-Loading.* (1) NVOCCs shall address the following situations in their tariffs:

(i) If an NVOCC does not tender cargo for co-loading, this shall be noted in its tariff.

(ii) If two or more NVOCCs enter into an agreement which establishes a carrier-to-carrier relationship for the co-loading of cargo, then the existence of such agreement shall be noted in the tariff.

(iii) If two NVOCCs enter into a co-loading arrangement which results in a shipper-to-carrier relationship, the tendering NVOCC shall describe its co-loading practices and specify its responsibility to pay any charges for the transportation of the cargo. A shipper-to-carrier relationship shall be presumed to exist where the receiving NVOCC issues a bill of lading to the tendering NVOCC for carriage of the co-loaded cargo.

(2) *Documentation requirements.* An NVOCC which tenders cargo to another